

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARIO HERNANDEZ JUAREZ,

Petitioner,

v.

CHARLES GREEN,

Respondent.

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Civ. No. 18-1005 (KM)

MEMORANDUM OPINION

KEVIN MCNULTY, U.S.D.J.

Petitioner, Mario Hernandez Juarez, is an immigration detainee who is presently detained at the Essex County Correctional Facility, in Newark, New Jersey. He is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. For the following reasons, and upon consent of respondent, the habeas petition will be granted insofar as the matter is remanded so that petitioner may receive a bond hearing.

Petitioner is a native and citizen of Guatemala. He entered the United States in 2007, and resided here since that time. On July 18, 2017, the Department of Homeland Security, Immigrations and Customs Enforcement, (“ICE”) took petitioner into immigration custody pending a determination as to his removal.

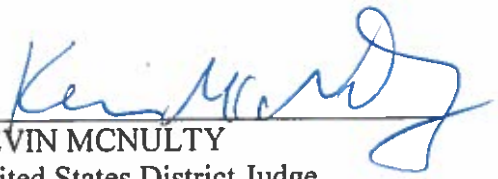
Petitioner filed this habeas petition on January 25, 2018. He argued that his detention exceeded the constitutional restrictions on mandatory detention under 8 U.S.C. § 1226(c) and sought an order granting immediate release or, alternatively, directing that he receive an individualized bond hearing. On January 29, 2018, I ordered respondent to file an answer responding to the petition. (ECF No. 2.)

Counsel for respondent subsequently filed a response indicating that petitioner was first taken into immigration custody in February 2014, but was released on bond. (ECF No. 4.) The response explains that petitioner was re-detained in July 2017 under 8 U.S.C. § 1226(a) following some arrests and a conviction for driving under the influence of alcohol. (*Id.*) It notes that, “although a [bond] hearing was held before an Immigration Judge, no decision was reached on Petitioner’s application.” (*Id.*) Respondent’s counsel represents that “the United States does not object to the Court entering an order remanding this matter to the Immigration Court for a bond hearing.” (*Id.*)

An alien taken into custody pending a removal determination under 8 U.S.C. § 1226(a) may be detained or may be released on bond or parole. Generally aliens detained under § 1226(a) should receive a bond hearing at the outset of detention. *See* 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1). As respondent seemingly concedes that petitioner should receive a bond hearing and explicitly does not object to the ordering of such a hearing, I will remand this proceeding to the Immigration Court for that purpose

For the foregoing reasons, the habeas petition will be granted insofar as ordering that an Immigration Judge provide petitioner with an individualized bond hearing, pursuant to 8 U.S.C. § 1226, within fourteen days of the date of this memorandum opinion and order. An appropriate order will be entered.

DATED: April 2, 2018


KEVIN MCNULTY
United States District Judge